



APPLN. NO. 09/767,680
AMDT. DATED SEPTEMBER 7, 2004
ATTORNEY DOCKET 58982.000010
1652/44

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Application Number : 09/767,680 Confirmation No.: 4425
Applicant : Asger GEPPEL et al.
Filed : January 24, 2001
Title : PORPHYRIN CONTAINING LACTIC ACID BACTERIAL CELLS
AND USE THEREOF
TC/Art Unit : 1652
Examiner: : Kathleen M. Kerr

Docket No. : 58982.000010
Customer No. : **21967**

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

**CONDITIONAL REQUEST FOR EXTENSION OF TIME AND
RESPONSE TO NOTIFICATION OF NON-COMPLIANT
AMENDMENT MAILED MAY 06, 2004**

Sir:

**CONDITIONAL REQUEST FOR EXTENSION OF TIME
IN VIEW OF MIS-DIRECTED NOTIFICATION**

Applicants respectfully request a conditional three-month extension of time under 37 C.F.R. § 1.136(a) for responding to the Office Communication, containing a non-compliant amendment notification (“Notification”) mailed on May 06, 2004, in the above-captioned application. Applicants’ representatives first became aware of the Notification on September 01, 2004, via the U.S. Patent and Trademark Office (USPTO) Public Pair website. Applicants include herewith a print-out of the Notification as obtained from the USPTO Public Pair website (Tab 1).

As can clearly be seen from the attached print-out, the Notification mailed May 06, 2004, was incorrectly addressed to “Shawnya Michaels, 3475 Edison Way, Suite M, Menlo Park, CA

94025, instead of the correct address for Applicants' representatives, *i.e.*, Stanislaus Aksman, Esq., Hunton & Williams LLP, Suite 1200, 1900 K Street, N.W., Washington, D.C. 20006." Accordingly, Applicants respectfully request that the extension of time fees otherwise necessary for replying to this Action be waived in light of the mis-directed communication from the USPTO.

However, in order to be fully compliant and to ensure entry of the corrected section of the non-compliant amendment document, Applicants conditionally petition for a three-month extension of time, thereby extending the period for reply up to and including Tuesday, September 07, 2004 (September 06, 2004, being a Federal Holiday). Should the USPTO ultimately deem a three month extension of time necessary for entry of the corrected section of the non-compliant amendment document, Applicants hereby authorize the Director of the USPTO to charge the amount of \$950.00 pursuant to 37 C.F.R. § 1.17(a)(3) to cover the three-month extension of time fee to the undersigned's Deposit Account No. 50-0206. In the event of any variance between the amount enclosed and the fees determined by the U.S. Patent and Trademark Office, please charge or credit any such variance to the undersigned's Deposit Account No. 50-0206.

INTRODUCTORY REMARKS

Responsive to the Notification, Applicants submit herewith the corrected section of the non-compliant amendment document providing a listing of the claims in accordance with 37 C.F.R. §1.121.

AMENDMENT

Responsive to the Notification mailed May 06, 2004, please amend the above-captioned application as set forth below.

Amendments to the Claims are reflected in the listing of claims which begins on page 3 of this paper.

Remarks begin on page 9 of this paper.